

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND COMPOUNDING PHARMACY, INC. PRODUCTS LIABILITY LITIGATION

MDL No. 2419 Master Dkt. 1:13-md-02419-RWZ

THIS DOCUMENT RELATES TO:

Keyes v. Specialty Surgery Center, PLLC et al. No. 1:13-cv-12998

**PLAINTIFF'S STEERING COMMITTEE'S NOTICE REGARDING OPPOSITION TO
MOTION TO DISMISS IN KEYES CASE**

At the January 10, 2017 status conference, the Plaintiffs' Steering Committee informed the Court that it would confer with counsel in the *Keyes v. Specialty Surgery Center, PLLC*, Case No. 1:13-cv-12998 (the "*Keyes Case*") the Defendants filed a Motion to Dismiss in the individual docket (Dkt. No. 21 in the *Keyes case*) but provided no Cross-Notice in the MDL action to alert the PSC to the filing of the Motion.

The PSC has conferred with counsel in the *Keyes Case* and has determined that counsel in that case wishes to Oppose the Motion on the same grounds offered by the PSC in Docket Nos. 3121, 3122, and 3168 in this MDL. The *Keyes Case* is similarly situated as the "Remaining Actions" as that term is used in Dkt. No. 3122. The Court had previously dismissed the Remaining Actions in its Order of November 17, 2016 [Dkt. No. 3188]. To ensure there is a record for appeal, the PSC simply requests that the arguments made in Dkt. Nos. 3121, 3122, and 3168 be applicable to the pending Motion to Dismiss in the *Keyes Case* and that any Order dismissing the *Keyes case* be based upon the Court's reasoning in Dkt. No. 3188 and not simply because the Plaintiff did not file a Response to the Motion to Dismiss filed in the individual docket in the *Keyes Case*.

Dated: January 13, 2017

Respectfully Submitted,

/s/ Benjamin A. Gastel

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 13, 2017, a true and exact copy of the foregoing was served upon all counsel of record via the courts electronic mail.

/s/ Benjamin A. Gastel

Benjamin A. Gastel